

Union Calendar No. 388

106TH CONGRESS
2D SESSION

H. R. 4227

[Report No. 106-692]

To amend the Immigration and Nationality Act with respect to the number of aliens granted nonimmigrant status described in section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, to implement measures to prevent fraud and abuse in the granting of such status, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 11, 2000

Mr. SMITH of Texas (for himself, Mr. CAMPBELL, and Mr. GOODLATTE) introduced the following bill; which was referred to the Committee on the Judiciary

JUNE 23, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 11, 2000]

A BILL

To amend the Immigration and Nationality Act with respect to the number of aliens granted nonimmigrant status described in section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, to implement measures to prevent fraud and abuse in the granting of such status, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Technology Worker Temporary Relief Act”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 7 *Act is as follows:*

Sec. 1. Short title; table of contents.

**TITLE I—NUMERICAL LIMITATIONS ON H-1B NONIMMIGRANTS;
 INCREASED PORTABILITY OF H-1B STATUS**

Sec. 101. Temporary increase in access to H-1B nonimmigrants.

Sec. 102. Increased portability of H-1B status.

**TITLE II—NEW REQUIREMENTS ON PETITIONING EMPLOYERS; PE-
 TITION FILING FEE REDUCTION FOR LOCAL EDUCATIONAL AGEN-
 CIES**

Sec. 201. Minimum salary requirement.

*Sec. 202. Submission of data on H-1B nonimmigrants after employment com-
 mencement.*

Sec. 203. Fee to enable more efficient paperwork processing.

Sec. 204. Qualifications for physical therapists.

Sec. 205. Reduction of petition filing fee for local educational agencies.

Sec. 206. Effective date.

**TITLE III—NONCOMPLIANCE PROVISIONS FOR H-1B
 NONIMMIGRANTS**

*Sec. 301. Requiring specialty occupation workers and fashion models to obtain
 status as an H-1B nonimmigrant.*

Sec. 302. Requiring full-time employment.

Sec. 303. Requirements for specialty occupation.

Sec. 304. Noncompliance fee.

Sec. 305. Additional requirements on petitioning employers.

Sec. 306. Requiring filing of W-2 forms.

Sec. 307. Effective date.

**TITLE IV—EXTENSION OF PROVISIONS FROM THE AMERICAN
 COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT OF 1998**

*Sec. 401. Protection of United States workers in case of H-1B dependent employ-
 ers.*

Sec. 402. Additional investigative authority.

Sec. 403. Requirement to issue regulations.

TITLE V—STUDIES AND REPORTS

Sec. 501. Studies and reports by Comptroller General.

1 **TITLE I—NUMERICAL LIMITA-**
2 **TIONS ON H-1B NON-**
3 **IMMIGRANTS; INCREASED**
4 **PORTABILITY OF H-1B STA-**
5 **TUS**

6 **SEC. 101. TEMPORARY INCREASE IN ACCESS TO H-1B NON-**
7 **IMMIGRANTS.**

8 *(a) ELIMINATING NUMERICAL LIMITATION FOR FISCAL*
9 *YEAR 2000; CONDITIONING INCREASES FOR FISCAL YEARS*
10 *2001 AND 2002.—Section 214(g)(1)(A) of the Immigration*
11 *and Nationality Act (8 U.S.C. 1184(g)(1)(A)) is amended*
12 *to read as follows:*

13 “(A) under section 101(a)(15)(H)(i)(b), may not
14 exceed—

15 “(i) subject to paragraph (5), 107,500 in
16 fiscal year 2001;

17 “(ii) subject to paragraph (5), 65,000 in fis-
18 cal year 2002; and

19 “(iii) 65,000 in each succeeding fiscal year;
20 or”.

21 (b) CONDITIONS ON INCREASES.—Section 214(g) of the
22 Immigration and Nationality Act (8 U.S.C. 1184(g)) is
23 amended by adding at the end following:

1 “(5)(A) *The numerical limitations in clauses (i) and*
2 *(ii) of paragraph (1)(A) shall not apply to an alien de-*
3 *scribed in subparagraph (B).*

4 “(B) *An alien is described in this subparagraph if—*

5 “(i) *the alien, disregarding clauses (i) and (ii)*
6 *of paragraph (1)(A), otherwise is eligible to be issued*
7 *a visa or provided nonimmigrant status under section*
8 *101(a)(15)(H)(i)(b); and*

9 “(ii) *the employer petitioning under subsection*
10 *(c)(1) with respect to the alien demonstrates in the*
11 *petition that, with respect to the taxable year pre-*
12 *ceding the taxable year in which the petition is filed,*
13 *there was a net increase (as compared with the tax-*
14 *able year prior to such preceding taxable year) in the*
15 *median of the total wages (including cash bonuses*
16 *and similar compensation) paid to full-time equiva-*
17 *lent United States workers (as defined in section*
18 *212(n)(4)(E)) who are on the employer’s payroll on*
19 *the last day of the taxable year.*

20 “(C) *In making the determination under subpara-*
21 *graph (B)(ii)—*

22 “(i) *any group treated as a single employer*
23 *under subsection (b), (c), (m), or (o) of section 414 of*
24 *the Internal Revenue Code of 1986 shall be treated as*
25 *a single employer; and*

1 “(ii) the Attorney General shall disregard work-
 2 ers who ceased employment with an employer by rea-
 3 son of the employer’s having sold, or otherwise legally
 4 transferred for consideration, the assets of a division
 5 or other severable portion of the employer’s business
 6 to another person before the end of the employer’s pre-
 7 vious tax year.”.

8 (c) *EFFECTIVE DATES.*—

9 (1) *ELIMINATING NUMERICAL LIMITATION FOR*
 10 *FISCAL YEAR 2000.*—The amendment made by sub-
 11 section (a), to the extent that it eliminates the numer-
 12 ical limitation under section 214(g)(1)(A)(iii) of the
 13 Immigration and Nationality Act, as in effect on the
 14 day before the date of the enactment of this Act, shall
 15 take effect on the date of the enactment of this Act.

16 (2) *CONDITIONING INCREASES FOR FISCAL YEARS*
 17 *2001 AND 2002.*—In all other respects, the amendments
 18 made by this section shall take effect on October 1,
 19 2000, without regard to whether or not proposed or
 20 final regulations to carry out such amendments have
 21 been promulgated.

22 **SEC. 102. INCREASED PORTABILITY OF H-1B STATUS.**

23 (a) *IN GENERAL.*—Section 214(c) of the Immigration
 24 and Nationality Act (8 U.S.C. 1184(c)) is amended by add-
 25 ing at the end the following:

1 “(10)(A) *A nonimmigrant alien described in subpara-*
 2 *graph (B) who was issued a visa (or otherwise provided*
 3 *nonimmigrant status) under section 101(a)(15)(H)(i)(b)*
 4 *may change employers upon the filing by the prospective*
 5 *employer of a petition under paragraph (1) on behalf of*
 6 *the alien to obtain authorization for the change. Employ-*
 7 *ment authorization shall continue for such alien until such*
 8 *petition is adjudicated. If the petition is denied, such em-*
 9 *ployment authorization shall cease.*

10 “(B) *A nonimmigrant alien described in this subpara-*
 11 *graph is a nonimmigrant alien—*

12 “(i) *who has been lawfully admitted into the*
 13 *United States;*

14 “(ii) *on whose behalf an employer has filed a*
 15 *nonfrivolous petition described in subparagraph (A)*
 16 *before the date of the expiration of the period of stay*
 17 *authorized by the Attorney General for the alien; and*

18 “(iii) *who, subsequent to such lawful admission,*
 19 *has not been employed without authorization in the*
 20 *United States before the filing of such petition.”.*

21 (b) *EFFECTIVE DATE.—The amendment made by sub-*
 22 *section (a) shall take effect on the date of the enactment*
 23 *of this Act and shall apply to petitions filed before, on, or*
 24 *after such date.*

1 **TITLE II—NEW REQUIREMENTS**
2 **ON PETITIONING EMPLOY-**
3 **ERS; PETITION FILING FEE**
4 **REDUCTION FOR LOCAL EDU-**
5 **CATIONAL AGENCIES**

6 **SEC. 201. MINIMUM SALARY REQUIREMENT.**

7 (a) *IN GENERAL.*—Section 212(n)(1)(A) of the Immi-
8 gration and Nationality Act (8 U.S.C. 1182(n)(1)(A)) is
9 amended—

10 (1) by striking “and” at the end of clause (i);

11 (2) by redesignating clause (ii) as clause (iii);

12 and

13 (3) by inserting after clause (i) the following:

14 “(ii) is offering and will offer during the
15 period of authorized employment to H–1B non-
16 immigrants wages that are at least equal to an
17 annual salary of \$40,000 (including cash bo-
18 nuses and similar compensation), except if the
19 employment in question is as a public or private
20 elementary or secondary school teacher or if the
21 employer is an institution of higher education
22 (as defined in section 101(a) of the Higher Edu-
23 cation Act of 1965) or a related or affiliated
24 nonprofit entity, a nonprofit research organiza-

1 tion, or a governmental research organization;
2 and”.

3 (b) *INFLATION ADJUSTMENT.*—Section 212(n) of the
4 *Immigration and Nationality Act* (8 U.S.C. 1182(n)) is
5 amended by adding at the end the following:

6 “(6) For purposes of paragraph (1)(A)(ii), in the case
7 of any fiscal year beginning in a calendar year after 2000,
8 the dollar amount contained in such paragraph shall be in-
9 creased by an amount equal to—

10 “(A) the dollar amount; multiplied by

11 “(B) the cost-of-living adjustment determined
12 under section 1(f)(3) of the *Internal Revenue Code* of
13 1986 for the calendar year in which the fiscal year
14 begins by substituting ‘calendar year 1999’ for ‘cal-
15 endar year 1992’ in subparagraph (B) of such sec-
16 tion.”.

17 **SEC. 202. SUBMISSION OF DATA ON H-1B NONIMMIGRANTS**
18 **AFTER EMPLOYMENT COMMENCEMENT.**

19 (a) *IN GENERAL.*—Section 212(n)(1) of the *Immigra-*
20 *tion and Nationality Act* (8 U.S.C. 1182(n)(1)) is amended
21 by inserting after subparagraph (G) the following:

22 “(H) The employer will electronically submit to
23 the Secretary, not later than 30 days after the date
24 on which an H-1B nonimmigrant commences em-
25 ployment with the employer, data in an electronic

1 *format containing information about the non-*
 2 *immigrant, including the following:*

3 “(i) *The foreign state of which the non-*
 4 *immigrant is a citizen or national.*

5 “(ii) *The academic degrees obtained by the*
 6 *nonimmigrant.*

7 “(iii) *The nonimmigrant’s job title.*

8 “(iv) *The date on which employment com-*
 9 *menced.*

10 “(v) *The nonimmigrant’s salary or wage*
 11 *level.”.*

12 (b) *REQUIREMENT ON SECRETARY.—Not later than 30*
 13 *days after the receipt of data from an employer that is pro-*
 14 *vided in accordance with section 212(n)(1)(H) of the Immi-*
 15 *gration and Nationality Act (8 U.S.C. 1182(n)(1)(H)), as*
 16 *inserted by subsection (a), the Secretary of Labor shall*
 17 *make such data available on the Internet.*

18 **SEC. 203. FEE TO ENABLE MORE EFFICIENT PAPERWORK**
 19 **PROCESSING.**

20 (a) *IMPOSITION OF FEE.—Section 214(c) of the Immi-*
 21 *gration and Nationality Act (8 U.S.C. 1184(c)), as amend-*
 22 *ed by section 102, is further amended by adding at the end*
 23 *the following:*

1 “(11)(A) *In addition to any other fees authorized by*
 2 *law, the Attorney General shall impose a processing fee on*
 3 *an employer filing a petition under paragraph (1)—*

4 “(i) *initially to grant an alien nonimmigrant*
 5 *status described in section 101(a)(15)(H)(i)(b); or*

6 “(ii) *to obtain authorization for an alien having*
 7 *such status to change employers.*

8 “(B) *The amount of the fee shall be \$200 for each such*
 9 *petition.*

10 “(C) *Fees collected under this paragraph shall be de-*
 11 *posited in the Treasury in accordance with section 286(t).”.*

12 (b) *ESTABLISHMENT OF ACCOUNT; USE OF FEES.—*
 13 *Section 286 of the Immigration and Nationality Act (8*
 14 *U.S.C. 1356) is amended by adding at the end the following:*

15 “(t) *H-1B PROCESSING FEE ACCOUNT.—*

16 “(1) *IN GENERAL.—There is established in the*
 17 *general fund of the Treasury a separate account,*
 18 *which shall be known as the ‘H-1B Processing Fee*
 19 *Account’. Notwithstanding any other provision of law,*
 20 *there shall be deposited as offsetting receipts into the*
 21 *account all fees collected under section 214(c)(11).*

22 “(2) *USE OF FEES.—50 percent of the amounts*
 23 *deposited into the H-1B Processing Fee Account shall*
 24 *remain available to the Attorney General until ex-*
 25 *pended to carry out duties under section 214(c)(1) re-*

1 *lated to petitions made for nonimmigrants described*
 2 *in section 101(a)(15)(H)(i)(b) and to decrease the*
 3 *processing time for such petitions. 50 percent of the*
 4 *amounts deposited into the account shall remain*
 5 *available to the Secretary of Labor until expended for*
 6 *decreasing the processing time for applications under*
 7 *section 212(n)(1) and for carrying out section*
 8 *212(n)(2).”.*

9 **SEC. 204. QUALIFICATIONS FOR PHYSICAL THERAPISTS.**

10 *(a) IN GENERAL.—Section 214(i)(2) of the Immigra-*
 11 *tion and Nationality Act (8 U.S.C. 1184(i)(2)) is*
 12 *amended—*

- 13 *(1) by striking “(A)” and inserting “(i)”;*
- 14 *(2) by striking “(B)” and inserting “(ii)”;*
- 15 *(3) in subparagraph (C), by striking “(ii)” and*
 16 *inserting “(II)”*
- 17 *(4) by striking “(C)(i)” and inserting “(iii)(I)”;*
- 18 *(5) by striking “(2)” and inserting “(2)(A)”;*
- 19 *and*
- 20 *(6) by adding at the end the following:*

21 *“(B) In the case of a position in a specialty occupation*
 22 *that requires an alien to perform services as a physical ther-*
 23 *apist, the requirements of this paragraph also include a re-*
 24 *quirement that the alien have completed a degree recognized*
 25 *by body or bodies approved for the purpose by the Secretary*

1 *of Education as equivalent (or more than equivalent) to the*
 2 *education and training received by a person completing a*
 3 *master’s degree from an accredited program of physical*
 4 *therapy in the United States.”.*

5 (b) *APPLICABILITY.—The amendment made by sub-*
 6 *section (a)(6) shall not apply to any alien who has full*
 7 *State licensure to practice in the occupation of physical*
 8 *therapist before the date of the enactment of this Act.*

9 **SEC. 205. REDUCTION OF PETITION FILING FEE FOR LOCAL**
 10 **EDUCATIONAL AGENCIES.**

11 *Section 214(c)(9)(B) of the Immigration and Nation-*
 12 *ality Act (8 U.S.C. 1184(c)(9)(B)) is amended by striking*
 13 *“petition.” and inserting “petition, except that the amount*
 14 *of the fee shall be \$100 for an employer that is a local edu-*
 15 *cational agency (as defined in section 14101 of the Elemen-*
 16 *tary and Secondary Education Act of 1965 (20 U.S.C.*
 17 *8801)).”.*

18 **SEC. 206. EFFECTIVE DATE.**

19 (a) *IN GENERAL.—Subject to section 204(b) and sub-*
 20 *section (b), the amendments made by this title shall take*
 21 *effect on the date of the enactment of this Act and shall*
 22 *apply to petitions filed under section 214(c), and applica-*
 23 *tions filed under section 212(n)(1), of the Immigration and*
 24 *Nationality Act on or after October 1, 2000.*

1 (b) *REQUIREMENTS FOR SPECIALTY OCCUPATION.*—
 2 *The amendments made by paragraphs (1) through (5) of*
 3 *section 204(a) shall take effect on the date of the enactment*
 4 *of this Act and shall apply to petitions filed under section*
 5 *214(c), and applications filed under section 212(n)(1), of*
 6 *the Immigration and Nationality Act on or after the earlier*
 7 *of—*

8 (1) *October 1, 2000; and*

9 (2) *the date on which final regulations are pro-*
 10 *mulgated to carry out the amendments made by sec-*
 11 *tion 303.*

12 ***TITLE III—NONCOMPLIANCE***
 13 ***PROVISIONS FOR H-1B NON-***
 14 ***IMMIGRANTS***

15 ***SEC. 301. REQUIRING SPECIALTY OCCUPATION WORKERS***
 16 ***AND FASHION MODELS TO OBTAIN STATUS AS***
 17 ***AN H-1B NONIMMIGRANT.***

18 *Section 214(g) of the Immigration and Nationality*
 19 *Act (8 U.S.C. 1184(g)), as amended by section 101 of this*
 20 *Act, is further amended by adding at the end the following:*

21 “(6) *Notwithstanding any other provision of this Act,*
 22 *any alien admitted or provided status as a nonimmigrant*
 23 *in order to provide services in a specialty occupation de-*
 24 *scribed in subsection (i)(1) (other than services described*
 25 *in subparagraph (H)(ii)(a), (O), or (P) of section*

1 101(a)(15)) or as a fashion model shall have been issued
 2 a visa (or otherwise been provided nonimmigrant status)
 3 under section 101(a)(15)(H)(i)(b).”.

4 **SEC. 302. REQUIRING FULL-TIME EMPLOYMENT.**

5 (a) *IN GENERAL.*—Section 101(a)(15)(H)(i)(b) of the
 6 Immigration and Nationality Act (8 U.S.C.
 7 1101(a)(15)(H)(i)(b)) is amended by striking “or (P))” and
 8 inserting “or (P)), not less than 35 hours per week (except
 9 if the employer is an institution of higher education (as
 10 defined in section 101(a) of the Higher Education Act of
 11 1965) or a related or affiliated nonprofit entity),”.

12 (b) *CONFORMING AMENDMENTS.*—Section
 13 212(n)(2)(C)(vii) of the Immigration and Nationality Act
 14 (8 U.S.C. 1182(n)(2)(C)(vii)) is amended—

15 (1) in subclause (I), by striking “a full-time”
 16 and inserting “an”;

17 (2) by striking subclause (II);

18 (3) in subclause (III), by striking “subclauses (I)
 19 and (II)” and inserting “subclause (I)”; and

20 (4) by redesignating subclauses (III) through
 21 (VI) as subclauses (II) through (V), respectively.

22 **SEC. 303. REQUIREMENTS FOR SPECIALTY OCCUPATION.**

23 Section 214(i) of the Immigration and Nationality Act
 24 (8 U.S.C. 1184(i)), as amended by section 204 of this Act,
 25 is further amended—

1 (1) by amending paragraph (1)(B) to read as
2 follows:

3 “(B) attainment of a bachelor’s degree (or higher
4 degree) in the specific specialty as a minimum for
5 entry into the occupation in the United States.”;

6 (2) by amending paragraph (2)(A)(iii) to read
7 as follows:

8 “(iii)(I) completion of a bachelor’s degree (or
9 higher degree) that is not described in paragraph
10 (1)(B), (II) experience in the specialty equivalent to
11 the completion of the degree described in paragraph
12 (1)(B) for the occupation, and (III) recognition of ex-
13 pertise in the specialty through progressively respon-
14 sible positions relating to the specialty.”; and

15 (3) by adding at the end the following:

16 “(3) For purposes of this subsection, the term ‘bach-
17 elor’s degree (or higher degree)’ includes a foreign degree
18 that is a recognized foreign equivalent of a bachelor’s degree
19 (or higher degree).”.

20 **SEC. 304. NONCOMPLIANCE FEE.**

21 (a) *IMPOSITION OF FEE.*—Section 214(c) of the *Immi-*
22 *gration and Nationality Act* (8 U.S.C. 1184(c)), as amend-
23 ed by sections 102 and 203, is further amended by adding
24 at the end the following:

1 “(12)(A) *In addition to any other fees authorized by*
 2 *law, the Attorney General shall impose a noncompliance fee*
 3 *on an employer filing a petition under paragraph (1)—*

4 “(i) *initially to grant an alien nonimmigrant*
 5 *status described in section 101(a)(15)(H)(i)(b); or*

6 “(ii) *to obtain authorization for an alien having*
 7 *such status to change employers.*

8 “(B) *The amount of the fee shall be \$100 for each such*
 9 *petition.*

10 “(C) *Fees collected under this paragraph shall be de-*
 11 *posited in the Treasury in accordance with section*
 12 *286(u).”.*

13 (b) *ESTABLISHMENT OF ACCOUNT; USE OF FEES.—*
 14 *Section 286 of the Immigration and Nationality Act (8*
 15 *U.S.C. 1356), as amended by section 303 of this Act, is fur-*
 16 *ther is amended by adding at the end the following:*

17 “(u) *H-1B NONCOMPLIANCE ACCOUNT.—*

18 “(1) *IN GENERAL.—There is established in the*
 19 *general fund of the Treasury a separate account,*
 20 *which shall be known as the ‘H-1B Noncompliance*
 21 *Account’. Notwithstanding any other provision of law,*
 22 *there shall be deposited as offsetting receipts into the*
 23 *account all fees collected under section 214(c)(12).*

24 “(2) *USE OF FEES TO COMBAT FRAUD.—*

25 “(A) *ATTORNEY GENERAL.—*

1 “(i) *PROGRAMS TO ELIMINATE*
2 *FRAUD.—20 percent of amounts deposited*
3 *into the H–1B Noncompliance Account*
4 *shall remain available to the Attorney Gen-*
5 *eral until expended for programs and ac-*
6 *tivities to eliminate fraud by employers fil-*
7 *ing petitions under section 214(c)(1) with*
8 *respect to status under section*
9 *101(a)(15)(H)(i)(b) and aliens who are the*
10 *beneficiaries of such petitions.*

11 “(ii) *REMOVAL OF ALIENS.—20 percent*
12 *of amounts deposited into the H–1B Non-*
13 *compliance Account shall remain available*
14 *to the Attorney General until expended for*
15 *the removal of H–1B nonimmigrants (as*
16 *defined in section 212(n)(4)(C)) who are de-*
17 *portable under section 237(a)(1)(A) by rea-*
18 *son of having been found to be within the*
19 *class of aliens inadmissible under section*
20 *212(a)(6)(C).*

21 “(B) *SECRETARY OF STATE.—40 percent of*
22 *amounts deposited into the H–1B Noncompli-*
23 *ance Account shall remain available to the Sec-*
24 *retary of State until expended for programs and*

1 *activities to eliminate fraud by employers and*
 2 *aliens described in subparagraph (A).*

3 “(C) *JOINT PROGRAMS.*—20 percent of
 4 amounts deposited into the H-1B Noncompli-
 5 ance Account shall remain available to the Attor-
 6 ney General and the Secretary of State until ex-
 7 pended for programs and activities conducted by
 8 them jointly to eliminate fraud by employers
 9 and aliens described in subparagraph (A).”.

10 **SEC. 305. ADDITIONAL REQUIREMENTS ON PETITIONING**
 11 **EMPLOYERS.**

12 *Section 214(c) of the Immigration and Nationality Act*
 13 *(8 U.S.C. 1184(c)), as amended by sections 102, 203, and*
 14 *304 of this Act, is further amended by adding at the end*
 15 *the following:*

16 “(13) *The Attorney General may not approve any peti-*
 17 *tion under paragraph (1) filed by an employer with respect*
 18 *to an alien seeking to obtain or having the status of a non-*
 19 *immigrant under section 101(a)(15)(H)(i)(b) unless the em-*
 20 *ployer satisfies the following requirements:*

21 “(A) *The employer—*

22 “(i) *is an institution of higher education*
 23 *(as defined in section 101(a) of the Higher Edu-*
 24 *cation Act of 1965), or a governmental or non-*
 25 *profit entity; or*

1 “(ii) maintains a place of business in the
 2 United States that is licensed in accordance with
 3 any applicable State or local business licensing
 4 requirements and is used exclusively for business
 5 purposes.

6 “(B) The employer—

7 “(i) is a governmental entity;

8 “(ii) has aggregate gross assets with a value
 9 of not less than \$250,000—

10 “(I) in the case of an employer that is
 11 a publicly held corporation, as determined
 12 using its most recent report filed with the
 13 Securities and Exchange Commission; or

14 “(II) in the case of any other employer,
 15 as determined as of the date on which the
 16 petition is filed pursuant to regulations
 17 promulgated by the Attorney General; or

18 “(iii) provides documentation of business
 19 activity pursuant to regulations promulgated by
 20 the Attorney General.”.

21 **SEC. 306. REQUIRING FILING OF W-2 FORMS.**

22 (a) *IN GENERAL.*—Section 212(n)(1) of the Immigra-
 23 tion and Nationality Act (8 U.S.C. 1182(n)(1)), as amend-
 24 ed by section 202 of this Act, is further amended by insert-
 25 ing after subparagraph (H) the following:

1 “(I) The employer will, with respect to each em-
2 ployee who is an H-1B nonimmigrant, annually sub-
3 mit to the Secretary of Labor a copy of the most re-
4 cent statement under section 6051 of the Internal
5 Revenue Code of 1986. Such submission may be made
6 by electronic means.”.

7 (b) *EFFECTIVE DATE.*—The amendment made by sub-
8 section (a) shall take effect on the date of the enactment
9 of this Act and shall apply to applications filed under sec-
10 tion 212(n)(1) of the Immigration and Nationality Act on
11 or after October 1, 2000, but only with respect to statements
12 made under section 6051 of the Internal Revenue Code of
13 1986 on or after January 1, 2001.

14 **SEC. 307. EFFECTIVE DATE.**

15 *Except for the amendment made by section 306, the*
16 *amendments made by this title shall take effect on the date*
17 *of the enactment of this Act and shall apply to petitions*
18 *filed under section 214(c), and applications filed under sec-*
19 *tion 212(n)(1), of the Immigration and Nationality Act on*
20 *or after the date on which final regulations are promulgated*
21 *to carry out such amendments.*

1 **TITLE IV—EXTENSION OF PROVI-**
 2 **SIONS FROM THE AMERICAN**
 3 **COMPETITIVENESS AND**
 4 **WORKFORCE IMPROVEMENT**
 5 **ACT OF 1998**

6 **SEC. 401. PROTECTION OF UNITED STATES WORKERS IN**
 7 **CASE OF H-1B DEPENDENT EMPLOYERS.**

8 *Section 212(n)(1)(E)(ii) of the Immigration and Na-*
 9 *tionality Act (8 U.S.C. 1182(n)(1)(E)(ii)) is amended by*
 10 *striking “2001,” and inserting “2002,”.*

11 **SEC. 402. ADDITIONAL INVESTIGATIVE AUTHORITY.**

12 *Section 413(e)(2) of the American Competitiveness and*
 13 *Workforce Improvement Act of 1998 (as contained in title*
 14 *IV of division C of the Omnibus Consolidated and Emer-*
 15 *gency Supplemental Appropriations Act, 1999; Public Law*
 16 *105–277) is amended by striking “2001.” and inserting*
 17 *“2002.”.*

18 **SEC. 403. REQUIREMENT TO ISSUE REGULATIONS.**

19 *The Secretary of Labor shall promulgate final regula-*
 20 *tions fully implementing all provisions of the American*
 21 *Competitiveness and Workforce Improvement Act of 1998*
 22 *(as contained in title IV of division C of the Omnibus Con-*
 23 *solidated and Emergency Supplemental Appropriations*
 24 *Act, 1999; Public Law 105–277). Such regulations shall*
 25 *take effect on or before September 1, 2000.*

***TITLE V—STUDIES AND
REPORTS***

***SEC. 501. STUDIES AND REPORTS BY COMPTROLLER GEN-
ERAL.***

***(a) RECRUITMENT OF UNDERREPRESENTED
GROUPS.—***

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the measures taken, by employers who have filed an application under section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)), to recruit, for the employment for which H–1B nonimmigrants are sought by the application, qualified United States workers who are a member of an underrepresented group. The study shall include an examination of the extent to which these employers—

(A) recruit at—

(i) institutions of higher education with substantial numbers of students who are a member of an underrepresented group;

(ii) historically black colleges and universities;

(iii) community colleges; and

(iv) vocational and technical colleges;

and

1 (B) advertise in publications reaching mem-
2 bers of an underrepresented group.

3 (2) *RECOMMENDATIONS.*—If the Comptroller
4 General of the United States determines, based on the
5 study under paragraph (1), that modifications to the
6 provisions of the Immigration and Nationality Act
7 relating to H-1B nonimmigrants are appropriate in
8 order to increase recruitment by employers described
9 in paragraph (1) of members of an underrepresented
10 group, the Comptroller General shall include such rec-
11 ommendations in the report submitted under para-
12 graph (3).

13 (3) *REPORT.*—Not later than December 31, 2000,
14 the Comptroller General of the United States shall
15 submit to the Committees on the Judiciary of the
16 United States House of Representatives and of the
17 Senate a report containing the results of the study
18 under paragraph (1).

19 (4) *DEFINITIONS.*—For purposes of this sub-
20 section:

21 (A) The term “member of an underrep-
22 resented group” includes United States workers
23 who are African American, Hispanic, female, or
24 an individual with a disability.

1 (B) *The terms “H–1B nonimmigrant” and*
 2 *“United States worker” have the meaning given*
 3 *such terms in section 212(n)(4) of the Immigra-*
 4 *tion and Nationality Act (8 U.S.C. 1182(n)(4)).*

5 (b) *TRAINING INCUMBENT WORKERS.—*

6 (1) *IN GENERAL.—The Comptroller General of*
 7 *the United States shall conduct a study on the meas-*
 8 *ures taken, by employers who have filed an applica-*
 9 *tion under section 212(n)(1) of the Immigration and*
 10 *Nationality Act (8 U.S.C. 1182(n)(1)), continually to*
 11 *train and update the existing skills of incumbent em-*
 12 *ployees, and to promote such employees where pos-*
 13 *sible.*

14 (2) *REPORT.—Not later than December 31, 2000,*
 15 *the Comptroller General of the United States shall*
 16 *submit to the Committees on the Judiciary of the*
 17 *United States House of Representatives and of the*
 18 *Senate a report containing the results of the study*
 19 *under paragraph (1).*

20 (c) *COMPLIANCE WITH PROVISIONS DESIGNED TO EN-*
 21 *SURE ACCURATE COUNT OF H–1B NONIMMIGRANTS.—*

22 (1) *IN GENERAL.—The Comptroller General of*
 23 *the United States shall conduct a study to determine*
 24 *the degree of compliance by the Attorney General with*
 25 *the requirements of section 416 of the American Com-*

1 *petitiveness and Workforce Improvement Act of 1998*
2 *(as contained in title IV of division C of the Omnibus*
3 *Consolidated and Emergency Supplemental Appro-*
4 *priations Act, 1999; Public Law 105–277).*

5 (2) *REPORT.*—*Not later than December 31, 2000,*
6 *the Comptroller General of the United States shall*
7 *submit to the Committees on the Judiciary of the*
8 *United States House of Representatives and of the*
9 *Senate a report containing the results of the study*
10 *under paragraph (1).*

Union Calendar No. 388

106TH CONGRESS
2D SESSION

H. R. 4227

[Report No. 106-692]

A BILL

To amend the Immigration and Nationality Act with respect to the number of aliens granted non-immigrant status described in section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, to implement measures to prevent fraud and abuse in the granting of such status, and for other purposes.

JUNE 23, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed